

FILE COPY

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

MICHAEL J. CHAFFEE, R.N.,  
RESPONDENT.

97 NUR 015

LS9711131NUR

FINAL DECISION AND ORDER

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Michael J. Chaffee, R.N.  
2014 Taylor Avenue  
Racine, WI 53403

Wisconsin Board of Nursing  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Wisconsin Board of Nursing. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Michael J. Chaffee, R.N., Respondent, date of birth December 6, 1957, is licensed by the Wisconsin Board of Nursing as a registered professional nurse in the state of Wisconsin pursuant to license number 109207, which was first granted March 20, 1992.

2. Respondent's last address reported to the Department of Regulation and Licensing is 2014 Taylor Avenue, Racine, WI 53403.

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3. On January 13, 1997, Respondent was charged in Kenosha County Wisconsin Circuit Court, case number 97-CF-31 with:

a. One count of violating § 940.225(2)(g), Stats., (Second Degree Sexual Assault-Sexual Contact by an Employee to a Patient of an In-patient Health Care Facility), which at the time of the offense was a Class C felony. This count alleged that Respondent, on July 3, 1994 while employed as a nurse at St. Catherine's Hospital, Kenosha, Wisconsin, stroked and fondled the penis of T.J.D., who was then a patient at St. Catherine's Hospital, without T.J.D.'s consent.

b. One count of violating § 940.225(2)(g), Stats., (Second Degree Sexual Assault-Sexual Contact by an Employee to a Patient of an In-patient Health Care Facility), which at the time of the offense was a Class BC felony. This count alleged that Respondent, on December 26, 1996 while employed as a nurse at St. Catherine's Hospital, Kenosha, Wisconsin, stroked and fondled the penis of S.H.A., who was then a patient at St. Catherine's Hospital, without S.H.A.'s consent.

4. On September 17, 1997, following a jury trial, Respondent was convicted in Kenosha County Wisconsin Circuit Court, case number 97-CF-31 of the two counts of violating § 940.225(2)(g), Stats., (Second Degree Sexual Assault-Sexual Contact by an Employee to a Patient of an In-patient Health Care Facility).

5. On October 17, 1997, Respondent was sentenced on one count of Second Degree Sexual Assault-Sexual Contact by an Employee to a Patient of an In-patient Health Care Facility to 10 years in the Wisconsin State Prisons. On the second count of Second Degree Sexual Assault-Sexual Contact by an Employee to a Patient of an In-patient Health Care Facility, sentence was withheld and Respondent was placed on probation for a 20-year period consecutive to the first count.

6 Respondent has violated § 940.225(2)(g), Stats., a law substantially related to the practice of professional nursing.

#### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to § 441.07(1), Stats.

2. The Wisconsin Board of Nursing has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by having violating a law substantially related to the practice of professional nursing, has committed misconduct and unprofessional conduct, as defined by Wis. Admin. Code § N 7.04(1) and is subject to discipline pursuant to § 441.07(1)(d), Stats.

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Michael J. Chaffee's license to practice as a registered nurse in Wisconsin is hereby REVOKED, effective immediately.

IT IS FURTHER ORDERED THAT Michael J. Chaffee's license as a registered professional nurse in the state of Wisconsin shall be reinstated immediately, if Respondent provides proof sufficient to the Board of the dismissal of all criminal charges pending against Respondent in Kenosha County Wisconsin Circuit Court case number 97-CF-31.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 13th day of November, 1997.



Timothy D. Burns, C.R.N.A.

Chair

Board of Nursing

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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	97 NUR 015
MICHAEL J. CHAFFEE, R.N.,	:	
RESPONDENT.	:	

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STIPULATION

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It is hereby stipulated and agreed, by and between Michael J. Chaffee, R.N., Respondent; and John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

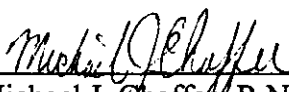
1. This stipulation is entered into as a result of a pending investigation of Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Board of Nursing (file 97 NUR 015).
2. Respondent understands that by the signing of this stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent is aware of Respondent's right to seek legal representation prior to signing this stipulation.
4. Respondent admits the allegations in this matter, and agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. Attached to this stipulation are the current wall and wallet registration certificates of Respondent. If the Board does not accept this stipulation, Respondent's certificates shall be returned to the Respondent with a notice of the Board's decision not to accept the stipulation.

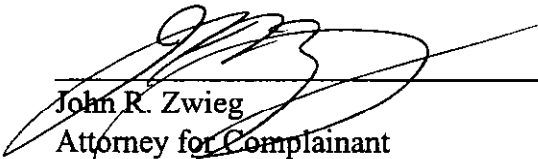
7. The parties to this stipulation agree that the Respondent, Respondent's attorney, if any, the member of the Board appointed as the investigative advisor in this matter, and an attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The parties agree to waive all costs of the investigation and this proceeding.

Dated this 1 day of November, 1997.

  
\_\_\_\_\_  
Michael J. Chaffetz, R.N.  
Respondent

Dated this 23rd day of October, 1997.

  
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John R. Zwieg  
Attorney for Complainant  
Department of Regulation & Licensing  
Division of Enforcement

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STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE BOARD OF NURSING

In the Matter of the Disciplinary Proceedings Against

Michael J. Chaffee, R.N.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On November 17, 1997, I served the Final Decision and Order dated November 13, 1997, LS9711131NUR, upon the Respondent Michael J. Chaffee, R.N. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 647.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

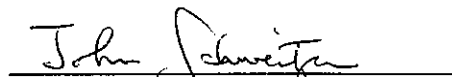
Michael J. Chaffee, R.N.  
2014 Taylor Avenue  
Racine WI 53403



Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 17<sup>th</sup> day of November, 1997.

  
Notary Public, State of Wisconsin  
My commission is permanent.

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

November 17, 1997

### 1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### 2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)